

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
AMARILLO DIVISION

ESMERVI CARONE RODRIGUEZ, §
§
Movant, §
§
v. § 2:22-CV-186-D
§ (2:18-CR-128-D)
UNITED STATES OF AMERICA, §
§
Respondent. §

ORDER

On March 17, 2023 the United States Magistrate Judge entered findings and conclusions on movant's motion under 28 U.S.C. § 2255 to vacate, set aside, or correct. The magistrate judge recommends that the motion be dismissed. No objections to the findings, conclusions, and recommendation have been filed.

After making an independent review of the pleadings, files, and records in this case, including the findings, conclusions, and recommendation of the magistrate judge, the court concludes that the findings and conclusions are correct. It is therefore ordered that the findings, conclusions, and recommendation of the magistrate judge are adopted, and movant's motion under 28 U.S.C. § 2255 to vacate, set aside, or correct is dismissed.

Considering the record in this case and pursuant to Fed. R. App. P. 22(b), Rule 11(a) of the Rules Governing §§ 2254 and 2255 proceedings, and 28 U.S.C. § 2253(c), the court denies a certificate of appealability. The court adopts and incorporates by reference the magistrate judge's findings, conclusions, and recommendation filed in this case in support of its finding that the movant has failed to show (1) that reasonable jurists would find this court's "assessment of the constitutional claims debatable or wrong," or (2) that reasonable jurists would find "it debatable

whether the petition states a valid claim of the denial of a constitutional right” and “debatable whether [this court] was correct in its procedural ruling.” *Slack v. McDaniel*, 529 U.S.473, 484 (2000).

If movant files a notice of appeal,

() movant may proceed *in forma pauperis* on appeal.

(X) movant must pay the \$505.00 appellate filing fee or submit a motion to proceed *in forma pauperis*.

SO ORDERED.

April 12, 2023.


SIDNEY A. FITZWATER
SENIOR JUDGE